

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ELIZABETH RODRIGUEZ,

Plaintiff,

-v-

UNITED STATES OF AMERICA,
and ROBERT SOLOMON, MD,

Defendants.

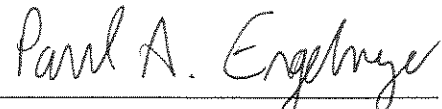
21 Civ. 2075 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On October 12, 2021, the Court received the parties' proposed case management plan. Dkt. 30. Plaintiff Elizabeth Rodriguez requests a jury trial, whereas defendant United States of America claims that she is not entitled to one under 28 U.S.C. §§ 1346, 2402. In her Amended Complaint, Rodriguez invokes Section 1346—the Federal Tort Claims Act—as the basis for this Court's jurisdiction. *See* Dkt. 29 at 1. And while Section 2402 does state that “any action against the United States under section 1346 shall be tried by a Court without a jury,” neither statute cited by the Government addresses what impact the fact that the Government is named as a co-defendant alongside an individual sued in his individual capacity, as appears to be the case here, has on a plaintiff's right to a jury trial. To aid the Court's review, the parties are instructed to submit briefing, limited to three single-spaced pages, on whether Rodriguez is entitled to a jury trial in this case, by October 29, 2021.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: October 14, 2021
New York, New York